

1 Bret Uhrich, WSBA #45595
2 Abigail Jacobs, WSBA #59063
3 Walker Heye, PLLC
4 1333 Columbia Park Trail, Ste 220
5 Richland, WA 99352
6 Telephone: (509) 735-4444
7 Attorneys for Plaintiff
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12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF WASHINGTON
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12 R.W., individually and on behalf of his
13 marital community,

14 Plaintiff,

15 v.

16 COLUMBIA BASIN COLLEGE, a
17 public institution of higher education;;
18 REBEKAH WOODS, in her official
19 capacity; and RALPH REAGAN, in his
20 individual and official capacities,

21 Defendants.

Cause No. 4:18-cv-05089-MKD

RESPONSE TO DEFENDANTS'
MOTION IN LIMINE

22 Plaintiff R.W., by and through his attorneys of record, submits the following
23 response to Defendant's Motions in Limine (ECF 327).
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1 **A. The Court Should (1) Admit Witness Testimony and Exhibits**
2 **Previously Admitted During the August 2022 Jury Trial; and (2)**
3 **Preclude Any Testimony or Exhibits That Are Cumulative of Prior**
4 **Evidence.**

5 No objection.

6 **B. The Court Should Enforce the Order and Presentation of**
7 **Witnesses.**

8 No objection.

9 **C. The Court Should Admit Exhibits Containing Legal Conclusions**
10 **for the Limited Purpose of Providing Context for Various Steps in**
11 **the Interim Trespass and Student Conduct Proceedings.**

12 Plaintiff objects in-part to the motion in limine. Plaintiff agrees that witnesses
13 cannot testify to legal conclusions. However, a witness may testify to the source and
14 scope of their authority. *See Johns v. Bay State Abrasive Prods. Co.*, 89 F. Supp.
15 654, 663 (D. Md. 1950). This may include the scope of authority for a state actor.
16 *See Maryland v. Dent*, 2019 WL 1795531, at *4 (D. Md. Apr. 23, 2019)
17 (unpublished); *see also Texas v. Kleinert*, 855 F.3d 305, 315 (5th Cir. 2017) (“FBI
18 Special Agent Dennis May, who created the task force, testified that Kleinert's
19 ‘authority to act as a federal officer was not limited to the [memorandum]; ... he had
20 a broader scope of authority.’”).
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22 In this case, the scope of Defendant Reagan’s authority arises from regulation.
23 Wash. Admin. Code § 132S-100. While eliciting testimony regarding legal
24 conclusions would not be proper, eliciting testimony regarding a state actor’s scope
25



1 of authority is proper, even if such authority derives of policies which are codified
2 or promulgated by regulation. As a result, the Court should deny the motion in limine
3 to the extent that it would infringe upon such testimony.
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5 **D. The Court Should Preclude Plaintiff from Offering Any Lay Opinion**
6 **That He Would Have Successfully Completed Winter Quarter 2017.**

7 The Court should deny this motion to the extent that it seeks to limit testimony
8 regarding whether R.W. could have completed his classes absent the trespass and
9 sanctions imposed by Defendants, and whether R.W. would have received failing
10 grades in all of the courses had he not been precluded from taking final examinations.
11 Defendant cites *Grimwood v. Univ. of Puget Sound, Inc.*, 110 Wash. 2d 355, 365,
12 753 P.2d 517, 521 (1988)¹ and *Schuler v. Chron. Broad. Co. Inc.*, 793 F.2d 1010,
13 1012 (9th Cir. 1986). In both cases, the issue was whether the employee was
14 discharged based on deficient performance. *Grimwood*, 753 P.2d at 518 (1988);
15 *Schuler*, 793 F.2d at 1012. In this case, Defendants did not purport to impose
16 sanctions on R.W. based on his academic performance. The sanctions issued by
17 Defendants were based explicitly on his speech made to medical and mental health
18 treatment providers. Such speech is not circular in nature. *See Oyama v. Univ. of*
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25 ¹ Which was abrogated by *Mikkelsen v. Pub. Util. Dist. No. 1 of Kittitas Cnty.*, 189
Wash. 2d 516, 404 P.3d 464 (2017) on other grounds.



1 *Hawaii*, 813 F.3d 850, 866-67 (9th Cir. 2015). As a result, the Court should deny
2 this motion in limine.

3
4 **DATED this 30th day of December, 2024.**

5
6 *s/Bret Uhrich*

7 Bret Uhrich, WSBA #45595

8 Abigail Jacobs, WSBA #59063

9 Attorneys for Plaintiffs

10 Walker Heye, PLLC

11 1333 Columbia Park Trail, Ste 220

12 Richland, WA 99352

13 Telephone: (509) 735-4444

14 Fax: (509) 735-7140

15 E-mail: buhrich@walkerhey.com

16 acybula@walkerhey.com



CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of December 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Carl Perry Warring: cwarring@ecl-law.com
Andrew David Brown: abrown@ecl-law.com

s/ Bret Uhrich
Bret Uhrich

